IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA (
(ss.
COUNTY OF SANTA BARBARA (

MILDRED KRUEGER, being first duly sworn, deposes and says:

That she is now and at all times mentioned herein has been a resident of the County of Santa Barbara, State of California, over and above the age of eighteen years, and not a party to, nor interested in the within action; that she is employed in the office of Heaney, Price, Postel & Parma, attorneys at law, and attorneys for defendant;

That on the 9th day of December, 1940, Messrs. Schauer, Ryon & McMahon and Robert W. McIntyre, Esq., attorneys for the plaintiff herein, were absent from their office, and that during such absence she, the said Mildred Krueger, served upon the said attorneys for plaintiff, the attached ANSWER, by leaving a copy thereof in said office with Marceline Cronan, the clerk of said Messrs. Schauer, Ryon & McMahon and Robert W. McIntyre, Esq.

Mildred Krueger

Subscribed and sworn to before me
this 9th day of December, 1940.

Notary Public in and for the County
of Santa Barbara, State of California.

HEANEY, PRICE, POSTEL & PARMA
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

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No. 32073

DEMURRER

Comes now the above named plaintiff and demurs to defendant's answer to plaintiff's complaint on the following grounds, to-wit:

I.

That said answer does not state facts sufficient to, or recite denials sufficient to, constitute a defense to plaintiff's complaint on file herein.

II.

That said answer does not state facts sufficient to, nor recite denials sufficient to, constitute a defense to the first cause of action set forth in plaintiff's complaint on file herein.

III.

That said answer does not state facts sufficient to, nor recite denials sufficient to, constitute a defense to the second cause of action set forth in plaintiff's complaint on file herein.

IV.

That the separate and second and further defense in

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said answer contained does not state facts sufficient to, nor recite denial sufficient to constitute a defense to plaintiff's complaint on file herein.

V.

That the answer to plaintiff's first cause of action in said action contained is uncertain in the following particulars, to-wit:

(1) In that it cannot be ascertained therefrom, and particularly from Paragraph II, commencing on page 1 thereof, why and for what reason defendant does not know how many times, or in what manner, he struck plaintiff.

(2) That it cannot be ascertained from said answer and Paragraph III of defendant's answer to plaintiff's first cause of action, how defendant slapped plaintiff on the 8th day of August, 1940, without attacking, or in any manner, beating plaintiff.

(3) That it cannot be ascertained from the said Answer and said Paragraph III thereof when plaintiff and defendant are alleged to have indulged together in the use of alcoholic beverages, how many times plaintiff and defendant so indulged in the use of alcoholic beverages and/or to what extent plaintiff and defendant together indulged in the use of alcoholic beverages.

(4) That it cannot be ascertained from said answer and from said Paragraph III thereof, whether or not defendant alleges plaintiff at any time lost her American citizenship.

(5) That it cannot be ascertained from said answer to plaintiff's said first cause of action, and particularly from Paragraph IV thereof, why or for what reason defendant does not know his income and/or wealth and/or the sums spent in maintaining the standard of living of the parties during their married life.

(6) That it cannot be ascertained from the separate and

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second and further defense in said defendant's answer on file herein, when plaintiff is alleged to have agreed to condone the acts of cruelty on the part of said defendant, in what form or how said agreement was made, what the terms of such an agreement were, or which acts of cruelty in connection with striking plaintiff, plaintiff is alleged to have condoned, or whether or not said defendant repeated said acts of cruelty or any acts of cruelty after such condonation.

VI.

That said answer and said defenses therein are ambiguous in the same particulars in which they are above asserted to be uncertain.

VII.

That said answer and said defenses therein contained are unintelligible in the same particulars in which they are above asserted to be uncertain.

WHEREFORE, plaintiff prays that this demurrer be sustained without leave to amend.

SCHAUER, RYON & McMAHON

By _____

_____

Attorneys for Plaintiff.

Receipt of a copy of the foregoing Demurrer and Memorandum of Points and Authorities in support thereof is hereby acknowledged this ___ day of December, 1940.

_____

Attorneys for Defendant.

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
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EMILY HALL SPRECKELS,

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vs.

ADOLPH B. SPRECKELS,

Defendant.

No. 32073

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER.

Where an answer does not state facts sufficient to constitute a defense the same is subject to a general demurrer.

C. C. P. Section 444.

Where an answer is uncertain it is subject to a special demurrer on that ground.

C. C. P. Section 444.

Where an answer is unintelligible, it is subject to a special demurrer on that ground.

C. C. P. Section 444.

Where an answer is ambiguous, it is subject to a special demurrer on that ground.

C. C. P. Section 444.

Respectfully submitted,

SCHAUER, RYON & McMAHON

By [signature]

[signature]

Attorneys for plaintiff

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,
Plaintiff,
vs.
ADOLPH B. SPRECKELS,
Defendant.

No. 32073

AFFIDAVIT OF SERVICE OF DEMURRER AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER.

STATE OF CALIFORNIA,)
) SS
COUNTY OF SANTA BARBARA)

ANNA ROYKA, being first duly sworn, deposes and says:

That she is a citizen of the United States of America and a resident of the County of Santa Barbara, State of California and over the age of 21 years; that she is not a party to, nor interested in the above entitled action. That on the 19th day of December, 1940, she served the attached Demurrer and Memorandum of Points and Authorities in Support thereof upon the above named defendant by personally delivering a true and correct copy thereof on said day to the attorneys of record herein for said defendant, at the offices of said attorneys at 21 East Canon Perdido Street, City of Santa Barbara, County of Santa Barbara, State of California, by leaving said copy with Mildred Krueger, who is secretary for a member of said firm, to-wit: Clarence Rogers, all other members of said firm of Heaney, Price, Postel and Parma being inaccessible to affiant, and none of said members

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ATTORNEYS AT LAW
21 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

appearing for purposes of delivery of said papers.

Dated: this 19th day of December, 1940.

Anna Boynton

Subscribed and sworn to before me
this 19th day of December, 1940.

Mabel Reynolds (SEAL)
Notary Public in and for said
County of Santa Barbara, State
of California.

SCHAUER, RYON & McMAHON
ATTORNEYS AT LAW
26 EAST CARRILLO ST.
SANTA BARBARA, CALIF.

STATE OF CALIFORNIA,

County of Santa Barbara } ss.

MARCELINE CRONAN, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Santa Barbara; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's ~~address~~ business address is 26 East Carrillo Street, Santa Barbara, California,

That on the 19th day of December, A. D., 1940 affiant served the within Demurrer and Memorandum of Points and Authorities in Support of Demurrer.

on the Attorney for Defendant in said action, by placing a true copy thereof in an envelope addressed to said Attorney at the ~~address~~ business address of said Attorney, as follows:[1] Walter Slack, Attorney at Law, Balfour Building, San Francisco, California

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office at Santa Barbara, California. That there is delivery service by United States mail at the place so addressed and there is a regular communication by mail between the place of mailing and the place so addressed.

SUBSCRIBED AND SWORN to before me this

19th day of December, 1940

Marceline Cronan

Mabel I Reynolds

Notary Public in and for said County and State.

AFFIDAVIT OF SERVICE — ANY PAPER BY MAIL

[1] *Here quote from envelope name and address of addressee.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

EMILY HALL SPRECKELS,

Plaintiff,

vs.

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Defendant.

No. 32073

NOTICE OF MOTION

TO THE ABOVE NAMED DEFENDANT, AND TO HEANEY, PRICE, POSTEL AND PARMA AND WALTER SLACK, ATTORNEYS FOR SAID DEFENDANT:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE, and you are hereby notified that the above named plaintiff, by and through her counsel of record herein, will, on the 6th day of January, 1940, at the hour of 10:00 o'clock A.M. at the courtrooms of the above entitled court, courtroom No. 1 in the County Court House of the County of Santa Barbara, in the City of Santa Barbara, County of Santa Barbara, State of California, move the above entitled court for its orders as follows:

I.

For the order of said court striking the entire answer of the above named defendant to the complaint of the above named plaintiff, on file herein, from the files of the above entitled court.

Said motion will be made on the grounds that said answer is sham, untrue, irrelevant, and redundant and not made and/or filed in good faith by said defendant.

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ATTORNEYS AT LAW
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SANTA BARBARA, CALIF.

Said motion will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Spreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

II.

For the order of said court striking from said answer the entire first defense to plaintiff's first cause of action set forth in plaintiff's complaint on file herein.

Said motion will be made on the grounds that said first defense is sham, untrue and irrelevant, redundant, argumentative, immaterial and not filed and/or made in good faith by said defendant.

Said motion will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Spreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

III.

For the order of said court striking Paragraph I of said first defense in said answer contained, from said answer.

For the order of said court striking Paragraph III of said first defense as in said answer set forth.

For the order of said court striking Paragraph IV from the first defense set forth in said answer.

Said motions, and each of them, in this Paragraph III contained, will be made on the grounds that said paragraphs, and each of them, are sham, evasive, irrelevant, immaterial,

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SANTA BARBARA, CALIF.

redundant, incompetent, untrue and are not made and/or presented in good faith.

Said motions will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Spreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

IV.

For the order of said court striking from Paragraph I of the said first defense in said answer set forth, all the material in said paragraph, commencing with the word "answering" in the middle of line 20 of the first page of said answer, to and including the word "thereof" on line 25 of said first page of said answer.

Said motion will be made on the grounds that said material is shez and that the matters denied on lack of information and belief are fully and truly known and were at all times fully and truly known to said defendant.

For the order of said court striking from said answer all of the material in Paragraph III of the first defense in said answer, commencing with the word "Further" on line 1 of page 2 of said answer, to and including the word "thereafter" on line 12, page 2 of said answer.

For the order of said court striking from paragraph III of said first defense in said answer set forth, all that material commencing with the word "Defendant" on line 13 of page 2 of said answer, to and including the word "time" on line 16, page 2 thereof.

For the order of said court striking from Paragraph III of the said first defense in said answer set forth, beginning

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with the word "defendant" on line 17 of Page 2 of said answer, to and including the word "excess" on line 22 of Page 2 of said answer.

For the order of said court striking from said Paragraph III of said first defense all the material therein beginning with the word "defendant" on line 23, Page 2 of said answer, to and including the word "activities" on line 6, Page 3 of said answer.

For the order of said court striking from said answer all that material in Paragraph III of the said first defense in said answer contained, commencing with the word "That" on line 25, Page 2 of said answer, to and including the word "Santa Barbara" in line 2, Page 3 of said answer.

For the order of said court striking from said answer all that material in said paragraph III of said first defense in said answer, commencing with the word "that" in line 2, Page 3 of said answer, to and including the word "Reifenstahl" in line 4, Page 3 of said answer.

For the order of said court striking from said answer all of that material in Paragraph III of said first defense in said answer set forth, commencing with the word "who" on line 4, Page 3, to and including the word "Hitler", on line 6, Page 3 of said answer.

For the order of said court striking from said answer all that material in Paragraph III of said first defense in said answer set forth commencing with the word "that" on line 9, Page 3 of said answer, to and including the word "defendant" on line 17, Page 3 of said answer.

For the order of said court striking from said answer all that material in said answer contained commencing with the word "that" on line 17, Page 3, Paragraph III of said first defense, to and including the word "Swastika" on line 24, Page 3 of said answer.

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For the order of said court striking from said answer all that material in Paragraph III of said first defense in said answer contained, commencing with the word "that" on line 24, page 3, of said answer, to and including the word "home" on line 28, page 3 of said answer.

For the order of said court striking from said answer in Paragraph III thereof of said first defense in said answer, all that material commencing with the word "that" on line 29, page 3 of said answer, to and including the word "place" on line 2 of page 4 of said answer.

For the order of said court striking from said Paragraph III of the first defense in said answer all that material commencing with the word "that" on line 2 of page 4 of said answer, to and including the word "request" on line 5, page 4 of said answer.

For the order of said court striking from said Paragraph III in said answer all that material commencing with the word "that" on line 5, page 4 of said answer, to and including the word "Government" on line 7, page 4 of said answer.

For the order of said court striking from said Paragraph III of the first defense set forth in said answer, all that material commencing with the word "Particularly" on line 7, page 4 of said answer, to and including the word "there" on line 2, page 5 of said answer.

For the order of said court striking from said Paragraph III of said first defense in said answer set forth, all that material commencing with the word "that" on line 3, page 5 of said answer, to and including the word "activities" on line 6, page 5 of said answer.

For the order of said court striking from said Paragraph III of said first defense in said answer set forth, all that material commencing with the word "Defendant" on line 7,

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page 5 of said answer, to and including the word "defendant" on line 10, page 5 of said answer.

For the order of said court striking from said Paragraph III of said first defense in said answer contained, all that material commencing with the word "Defendant" on line 11, page 5 of said answer, to and including the word "salute" on line 19, page 5 of said answer.

For the order of said court striking from said Paragraph III of said first defense in said answer set forth, commencing with the word "Defendant" on line 20, page 5 of said answer, to and including the word "be" on line 28, page 5 of said answer.

For the order of said court striking from said Paragraph III of said first defense in said answer set forth, all that material commencing with the word "Further" on line 29, page 5 of said answer, to and including the word "herein" on line 1, page 6 of said answer.

That the foregoing motions, and each of them, in this Paragraph IV mentioned, will be made on the grounds that the material in each motion moved to be stricken, is sham and/or irrelevant and/or immaterial and/or redundant and/or evidentiary and/or conclusions of law and/or untrue and/or argumentative and/or is not alleged in good faith.

Said motions, and each of them, will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Spreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

V.

For the order of said court striking from said answer the whole of said defendant's answer to plaintiff's second cause

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of action.

For the order of said court striking from said answer Paragraphs I, II and III of said answer to plaintiff's second cause of action.

For the order of said court striking from said answer to plaintiff's second cause of action, all of Paragraph IV of said answer to plaintiff's second cause of action.

For the order of said court striking all of paragraph V from said answer to plaintiff's second cause of action.

For the order of said court striking from said answer all of Paragraph VI of said answer to plaintiff's second cause of action.

For the order of said court striking from said answer all of Paragraph VII of said answer to plaintiff's second cause of action.

Said motions, and each of them in this Paragraph V contained will be made on the grounds that said portions of said answer sought to be stricken, and each of them, is sham and/or irrelevant and/or immaterial and/or redundant and/or conclusions of law and/or evidentiary matter and/or incompetent, and/or untrue and/or not alleged in good faith by said defendant.

Said motions, and each of them, will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Soreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

VI.

For the order of said court striking from said answer all of the second, separate and further defense in said answer set forth.

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Said motion will be made on the grounds that said second defense is sham, untrue and irrelevant, redundant, immaterial and not filed and/or made in good faith by said defendant.

Said motion will be supported by all the records, files, papers and pleadings in the above entitled action, by the affidavit of said plaintiff served and filed herewith, by the deposition of Adolph B. Spreckels taken in the above entitled matter by the above named plaintiff on the 2nd day of October, 1940, and by oral evidence to be adduced at the hearing of said motion.

Dated: this 18th day of December, 1940.

SCHAUER, RYON & McMAHON

By Harrison Ryon

Attorneys for Plaintiff

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